

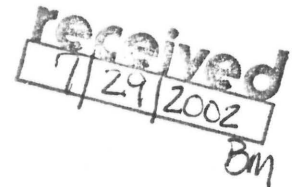
Southern New Mexico Legal Services, Inc.

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July 23, 2002

Mr. Michael Mattheisen
Office of Civil Rights
U.S. Environmental Protection Agency
Mail Code 1201A
1200 Pennsylvania Avenue NW.
Washington, D.C. 20460



Re: Chaparral, New Mexico, landfill operated by Rhino Environmental Services, Inc.

Dear Mr. Mattheisen:

This is a complaint (hereafter the "Complaint") under Title VI of the Civil Rights Act of 1964. This Complaint is filed by the Chaparral Community Health Council, a group of Chaparral residents working for environmental justice on behalf of the community of Chaparral.

This Complaint is filed against the State of New Mexico Environment Department (hereafter "NMED"), which is a recipient of U.S. Environmental Protection Agency ("EPA") assistance within the meaning of 40 C.F.R. § 7.25.

Southern New Mexico Legal Services, Inc., represents the Chaparral Community Health Council. The Council alleges that by issuing Rhino Environmental Services, Inc., a landfill permit allowing disposal of construction and demolition debris, municipal waste, commercial waste, industrial waste, and special waste, the NMED has discriminated on the basis of race, color, and national origin against the Latino residents who live near the landfill. This discrimination violates Title VI of the Civil Rights Act of 1964 and the EPA's implementing regulations, codified at 40 C.F.R. Part 7.

Introduction

This Complaint comes as a result of a recently concluded process conducted by the NMED, in which the NMED, under state and federal law, approved a permit for the Rhino landfill. The permit allows the landfill to accept for disposal construction and demolition waste, municipal waste, industrial waste, commercial waste, and special waste. The recent decision on the Rhino landfill has resulted in a disproportionate environmental impact on the predominantly minority Chaparral community. This discriminatory impact violates Title VI and the EPA's regulations and should not be continued by the NMED's issuance of a permit authorizing disposal of waste by the Rhino landfill.

Timeliness

The NMED's final action on the permit for the Rhino landfill was taken on January 30, 2002. This is the date on which the NMED issued its Final Order. This Complaint is being filed on July 23, 2002, within 180 days of the NMED's final action; it is therefore timely pursuant to 7 C.F.R. § 7.120(b)(2).

Statement of Facts

This Complaint challenges the issuance of a permit authorizing acceptance of municipal waste, commercial waste, industrial waste, construction and demolition debris, and special waste. This Complaint alleges that the NMED, in issuing this permit, has failed to consider the impact of the permit on the neighboring Latino community. Specifically, NMED has failed to consider that this minority community will bear the principal impact of the facility. This minority community also will bear a disproportionate share of the risks that result from the granting of the permit, such as the risk of ground water contamination from the landfill.

The Rhino property adjacent to the community of Chaparral has been operated as a petroleum-contaminated land farm since 1994. Rhino filed its initial application for a landfill permit with the NMED on October 4, 1999. The proposed change in the status of the property from a land farm to a full blown landfill is a significant change that would impose significant new risks on the surrounding community and the environment.

The NMED granted the Rhino landfill authorization to use 42 acres in the next ten years.

The NMED permit proceeding hearings also demonstrated that there is no need by either Las Cruces, Doña Ana County, Otero County, El Paso, or the State for this facility. And, the permitting of this facility runs counter to the New Mexico Solid Waste Management Plan, which sets forth NMED's solid waste management policy of consolidating municipal waste in larger, regional solid waste disposal facilities that can service larger populations with adequate liners.

The impacts and risks that will result from the NMED's issuance of the permit will be borne by a community that is both overwhelmingly minority and low income. Chaparral is the area of Doña Ana County with the highest concentration of Latino population and the lowest per capita income.

Chaparral, the community that lies closest to the Rhino landfill, is a Mexican immigrant community some of whose members live without electricity or running water. There are some private wells in this community. Thus, the community that lies in the direction of the ground water gradient from the Rhino landfill is not on city or county water systems and is particularly susceptible to risks posed by contamination of ground water.

Despite (1) the lack of any demonstrated need for this facility, (2) the low-income Latino

community that lies so close to the landfill, (3) the private wells in the area, (4) the Camino Real and Corralitos landfills substantial capacity which have been calculated to meet Doña Ana County and El Paso, Texas' needs for many more years, the NMED granted a permit for Rhino landfill to dispose of municipal, industrial, commercial, construction and demolition, and special types of waste.

Title VI and NMED

Title VI of the Civil Rights Act of 1964 provides:

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

42 U.S.C. § 2000d.

NMED, a recipient of federal financial assistance from EPA, has violated Title VI and EPA regulations by permitting waste facilities in low-income Latino communities. NMED is not only an active participant in the system of siting these facilities, but continues to use a method of administering RCRA (Resource Conservation and Recovery Act) permitting authority that results in discriminatory outcomes.

EPA must insure that recipients of EPA financial assistance are not subjecting people to discrimination. In particular, EPA's Title VI regulations provide that an EPA aid recipient:

shall not use criteria or methods of administering its program which have the effect of subjecting individuals to discrimination because of their race, color, national origin, or sex.

40 C.F.R. § 7.35(b).

The siting of waste facilities in a discriminatory manner is directly prohibited by the regulations:

A recipient shall not choose a site or location of a facility that has the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program to which this Part applies on the grounds of race, color, or national origin or sex; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of this subpart.

40 C.F.R. § 7.35(c).

NMED is subject to the nondiscrimination requirements of Title VI because it is a recipient of federal funds and services from EPA. NMED has primary authority in New Mexico under the federal RCRA solid waste program (59 Federal Register 66306), and thus has approval authority over all solid waste facility proposals in New Mexico. As a recipient of EPA financial and other assistance, NMED has violated and is violating Title VI as implemented by EPA's Title VI

regulations.

Title VI Violations

I. NMED's action has a discriminatory disproportionate impact.

The overwhelming majority of residents who will bear the impact of the NMED's decision allowing disposal of municipal waste in the Southwest landfill, and who will be at risk of further impacts from that decision, are people of color. The NMED did not consider this in making its decision to allow disposal of municipal waste in the landfill.

A. The populations that will be at risk from disposal of municipal waste in the Rhino landfill are overwhelmingly minority and low income.

The community that is most at risk of contamination from the NMED's decision to permit disposal of municipal solid waste in the Rhino landfill is Chaparral. This community consists of an overwhelmingly minority population with low per capita incomes.

Data gathered by the public school system in Chaparral confirms that Chaparral is an overwhelmingly minority population with a low per capita income. See record of public hearing.

In contrast, the populations of Doña Ana County and Otero County have a much smaller minority population than Chaparral. The State of New Mexico too has a much smaller minority population. See the results of the 2000 United States census. The Census data also demonstrate that per capita incomes are significantly lower in Chaparral than they are in the state and county generally.

The failure of the NMED to consider these issues and the disproportionate impact of the facility on the Latino community of Chaparral is striking. This demonstrably discriminatory impact is illegal under Title VI and its implementing regulations.

II NMED's action is a part of a pattern of discrimination against Chaparral.

A. The NMED has subjected Chaparral to substantial risks of contamination from various facilities.

Chaparral is already subject to substantial risks of environmental contamination. Contamination already exists in Chaparral, from the McCombs landfill, sludge pit, and other sources of pollution. Potential hazards to ground water exist in Chaparral, including active and closed landfills, and the waste water treatment plant on McCombs.

NMED already has permitted the Camino Real landfill facility at Sunland Park, New Mexico. The NMED has already also permitted the Corralitos landfill west of Las Cruces, New Mexico.

B. Permitting the Rhino landfill for municipal waste is contrary to the Solid Waste Act and to NMED's policy and its practice elsewhere in New Mexico.

1. The New Mexico Solid Waste Act, Solid Waste Management Regulations and the State Solid Waste Plan establish a policy of regionalization of solid waste facilities.

a. The Solid Waste Act requires adoption of a mandatory solid waste management plan for New Mexico.

The New Mexico Legislature enacted the New Mexico Solid Waste Act, NMSA 1978 §§ 74-9-1 *et seq.* in 1990. The Act required the NMED to prepare and submit to the New Mexico Environmental Improvement Board by December 31, 1992, for approval a solid waste management plan (the Plan). The Act also provides that NMED shall prepare and publish an annual report concerning management of solid waste in the state, with the first report to be published by July 1, 1994. NMSA 1978 § 74-9-13. In addition, the Act required the NMED to prepare (by December 1, 1993) and implement (by July 1, 1994) a state solid waste management program (the Program). The Program is required by the Solid Waste Act to be designed to achieve coordinated regional activity for management of solid waste within each solid waste district to be established pursuant to the Act. NMSA 1978 § 74-9-12.B.2.

The Solid Waste Act indicates the mandatory nature of the Plan. Section 74-9-5 NMSA 1978 of the Act provides:

The plan approved by the board shall be effective thirty days after its approval and shall be filed under the provisions of Section 14-4-4 NMSA 1978. Consistency with the plan shall be required:

- A. Of any regulation adopted by the board under the provisions of the Solid Waste Act;
- B. *In any action taken by the director [of NMED] under authority contained in the Solid Waste Act;*
- C. As a condition of approval of any application by a county or municipality for a grant under the provisions of the Solid Waste Act.

Emphasis added.

The Act therefore provides directly that any action taken by the NMED pursuant to the Act must be consistent with the Plan. As is indicated below, the Plan and the annual reports demonstrate the NMED's policy of regionalization of solid waste disposal facilities, including landfills. Although NMED's decision to permit the Rhino landfill for disposal of municipal waste was made pursuant to the Act, that decision was directly contrary to the Plan's stated goal of regionalization. For that reason, NMED's decision to permit the Rhino landfill for disposal of municipal waste violated the Act as well as the Plan.

b. The Plan and the NMED's annual reports demonstrate the NMED's emphasis on regionalization of landfills.

The Plan and the NMED's annual reports emphasize regionalization. The Plan was published in 1993. Its purpose is "to serve as a basis for developing statewide solid waste management programs" that accomplish five purposes, the second of which is to: "Encourage the coordination of regional approaches for solid waste management within a solid waste district." Plan at 3. The Plan also lists as one of four medium range (3-5 years) goals the siting of "additional regional landfills". Plan at 142. The Plan includes at least two statements of the rationale for regionalization, pointing out that "[t]he strongest argument for regionalization is cost savings realized through economies of scale", and stating in the context of New Mexico border communities, that "by increasing the population and waste base for a regional landfill, greater revenues can be generated to cover the cost of economically sound landfills." *Id.* At 147, 98.

The Plan's emphasis on regionalization is confirmed by the NMED's annual reports issued pursuant to the Solid Waste Act. The first annual report was published in 1994. It points out that regionalization makes sense from an economic point of view, but that it is a new concept that has yet to be fully implemented in New Mexico. Solid Waste in New Mexico, 1994 Annual Report at 2. The Executive Summary for the 1995 Report states that: "NMED encourages regionalization where it best solves the need of participating entities." Solid Waste in New Mexico, 1995 Annual Report Executive Summary (1995 Report) at 3. That Summary also points out that "[t]he economic realities of modern solid waste management regulations will eventually compel municipalities and counties to move forward with cooperative planning." 1995 Report at 13. Finally, the 1995 Report's recommendations includes a clear preference for regionalization, stating that: "Regional approaches to solid waste management should be given preferential treatment in all financial and regulatory considerations where they best serve the solid waste management needs of the governmental entities involved." 1995 Report at 14.

The 1996 Report (Solid Waste in New Mexico 1996 Annual Report [1996 Report]) states that "NMED encourages regionalization because it offers economies of scale and avoids expensive duplication of facilities and equipment." 1996 Report at 4. This policy is also reflected in the 1997 Report (Solid Waste in New Mexico, 1997 Annual Report [1997 Report]), the latest report that is available. Although the Report does not address regionalization directly, it does indicate that in about half the state, regional landfills have been or are being constructed and that they will provide ample capacity for years. 1997 Report at 1. The Report also points out the benefits of economies of scale for dealing with solid waste streams. *Id.* At 2.

Finally, the emphasis on regionalization is also apparent from the criteria that are used to determine whether New Mexico local governments can obtain grants from the solid waster grant fund established by the Solid Waste Act. NMSA 1978 74-9-41. The Guidelines for the Environmental Protection Solid Waste Facility Grant Fund detail a point system which is used to determine which solid waste facilities receive grants. Those Guidelines provide that up to ten points will be awarded "to the extent an application is jointly made by more than one

municipality or county. The greater the regionalization effort the higher the score." 20 NMAC 9.3(9).

2. NMED's regionalization policy is being implemented.

The number of landfills in New Mexico has decreased dramatically during the last decade. There were 280 landfills in the state in 1989. Plan Executive Summary at 2. That number was reduced to 74 by 1996, and 25 of those 74 were expected to close by 2001. 1996 Report at 1. The reason for this trend is the regional approach that is being used throughout the state. In each of the Annual Reports issued pursuant to the Act, NMED has described the efforts at cooperation being made by New Mexico local governments, principally through the formation of solid waste authorities involving several municipalities and/or counties. The number of those authorities being formed has increased in accordance with the trend towards regionalization of solid waste management efforts. For example, the number of such authorities in the state more than doubled between 1995, when there was only six, and 1997, when a total of 13 had been formed. 1995 Report at 42. 1997 Report at 13-23.

3. Issuance of the permit for municipal waste to the Southwest landfill is contrary to the policy of regionalization.

With the exception of NMED's permitting of the Rhino landfill, the policy of regionalization that is mandated by the Act, the Program, the Plan, and NMED's policy is also being implemented in Otero County and Doña Ana County, the site of the Rhino landfill. The City of Las Cruces worked to establish the Corralitos municipal solid waste landfill. The Corralitos landfill is operated by the City of Las Cruces, and accepts municipal solid waste from all of Doña Ana County. It also accepts municipal solid waste from outside the county. The Camino Real landfill, located in southern Doña Ana County, further serves the needs of the surrounding communities.

The Corralitos landfill not only has adequate municipal solid waste capacity for all of Doña Ana County, it is the regional type of landfill that is called for by the Act, the Plan, and NMED's policy. The Corralitos landfill is an example of regionalization, and the permitting of the Rhino landfill for municipal waste in the Corralito's service area is directly contrary to the regionalization mandates of the Act, the Program, the Plan, and NMED policy.

III. NMED is required to take into account the disproportionate impact of its actions.

That NMED's permitting action was taken under other federal and New Mexico laws does not excuse NMED from compliance with Title VI. The federal courts have not hesitated to enforce Title VI against federal, state, and local government agencies that have violated its anti-discriminatory provisions in the course of carrying out other laws. *See, e.g., Gatreaux v. Romney*, 448 F.2d 731 (7th Cir. 1971); *Meek v. Martinez*, 724 F.Supp. 888 (S.D.Fla. 1987). NMED must comply with all applicable federal laws, including Title VI.

Nor is it sufficient for NMED to assert that it plays no role in site selection for solid waste facilities because those sites are selected by permit applicants. EPA's Title VI regulations prohibit a recipient of EPA assistance from "using methods of administering its program which have the effect of subjecting individuals to discrimination because of their race, color, antional origin . . . " 40 C.F.R. § 7.35(b). Moreover, the regulations explicitly state that "a recipient shall not choose a site or location of a facility that has the purpose or effect of subjecting [individuals] to discrimination . . . on the grounds of race, color, or national origin. . . " 40 C.F.R. § 7.35(c). All that complainants must show to establish a violation of Title VI and the EPA regulations is that when applied in a particular manner, NMED's "method of administering its program" yields a discriminatory outcome. As shown above, NMED's method of administering its solid waste permitting program has resulted in discriminatory impacts on the basis of race, color, and national origin in this case.

Although NMED does not openly solicit the location for a facility, it "chooses" whether or not a facility can operate in a particular location. As the Director of EPA's Office of Civil Rights has pointed out: "[T]he fact that the recipient does not select the site in a permit application does not relieve the recipient of the responsibility of ensuring that its actions in issuing permits for such facilities do not have a discriminatory effect." Any assertion by NMED that it has no authority over site selection is therefore incorrect.

The effect of NMED's permitting process is clear: In New Mexico's most populous and fastest growing colonia, Hispanics will bear a disproportionate burden of the impacts of and a disproportionate share of the risks from the Rhino landfill. Moreover, the minority populations being subjected to these impacts and risks are already being subjected to disproportionate burdens and risks, including burdena and risks imposed upon them by NMED permitted facilities. By granting the permit to the Rhino landfill, NMED has administered its program in a manner that results in a discriminatory impact on people based on race, color, and national origin; NMED therefore has violated Title VI and EPA's regulations.

IV. NMED overlooked less discriminatory alternatives.

In issuing the permit to the Rhino landfill, NMED ignored the fact that several less discriminatory alternatives existed to granting the permit. The President of the United States, who has the authority to review and approve federal agency regulations under Title VI, has delegated this power to the U.S. Attorney General under Executive Order 12, 250. The Attorney General, in a "Memorandum to Heads of Departments and Agencies that Provide Federal Assistance" dated July 14, 1994, stated:

Individuals continue to be denied, on the basis of their race, color, or national origin, the full and equal opportunity to participate in or receive the benefits of programs assisted by Federal funds. *Frequently discrimination results from policies and practices that are neutral on their face but have the effect of discriminating. Those policies must be eliminated unless they are shown to be necessary to the program's operation and ther is*

no less discriminatory alternative.

Emphasis added.

Here, there is a discriminatory impact of NMED's permitting of the Southwest landfill. Moreover, there are several less discriminatory alternatives.

First, NMED did not consider any alternative locations that would have less discriminatory impact. In fact, NMED did not even consider the demographics of any alternative locations for the landfill.

Second, NMED did not consider limiting the capacity of or the material to be disposed of in the Rhino landfill so that it would not have as many impacts on the community. There is no need for the Rhino landfill to take municipal solid waste; the municipal solid waste generated in Doña Ana County can be adequately disposed of in the Corralitos landfill. The request for a permit for the Rhino landfill is not based on need; NMED should have considered that reduction in the amount of waste to be taken would reduce the impacts on the surrounding minority community of the traffic, noise, air and dust pollution, and litter that will result from the landfill, and the risks to which those surrounding minority communities would be subjected by the landfill. NMED also should have considered that denying the change in the status of the landfill would reduce those impacts and risks.

Finally, the NMED did not seriously consider not granting the permit to the Rhino landfill. NMED could have denied the permit application based on the discriminatory impact that would result. Moreover, denial of the application would have had no effect on the ability of Doña Ana County and Otero County to dispose of municipal waste generated within their borders because the Corralitos landfill has adequate capacity to dispose of all that waste.

V. The NMED's arguments against the Complaint are not persuasive.

There is no merit to NMED's assertion that it is not accountable under the Civil Rights Act and the EPA regulations codified at 40 C.F.R. Part 7. Similarly unpersuasive are NMED's allegations that it has no responsibility for the impacts on and risks to the predominantly minority community of Chaparral that will result from the approval of the Rhino landfill. Finally, the NMED's assertion that it was without guidance on civil rights issues when it decided to grant the Rhino landfill permit are not credible.

A. The Civil Rights Act and the EPA regulations apply to the NMED.

There is no question that the Civil Rights Act applies to agencies of the State of New Mexico, and even NMED has not quarreled with that basic proposition. Moreover, it is clear that the EPA's regulations also apply to NMED. The issue under the regulations is whether NMED is a recipient of EPA assistance in the operation of programs receiving such assistance starting in February, 1984. The regulations state:

This part applies to *all* applicants for, and recipients of, EPA assistance in the operation of programs or activities receiving such assistance beginning February 13, 1984.

40 C.F.R. § 7.15, emphasis added.

NMED is the recipient of EPA assistance, and NMED has not asserted otherwise. NMED's conduct therefore is governed by the regulations.

NMED has previously asserted that it is not accountable under the Civil Rights Act and the EPA's regulations because New Mexico's solid waste program is not a delegated program. This is not persuasive. The issue is whether NMED is a recipient of EPA assistance. In addition, NMED was granted primary authority to regulate solid waste in New Mexico on December 23, 1994, based on EPA's approval of NMED's solid waste regulation program. NMED's allegation that it is not responsible because it is not acting for EPA in a delegated program is inaccurate; neither the Civil Rights Act nor the EPA regulations is limited to delegated programs.

B. The applicability of the Civil Rights Act and EPA's regulations are not affected by the previous existence of the Rhino landfill as a petroleum saturated soil land farm.

Should NMED argue that their decision is not a siting decision because there was already a petroleum saturated soil land farm at the site, this argument is not persuasive for two reasons. First, the Civil Rights Act and the EPA regulations are not limited to siting decisions. Section 7.35(b) of 40 C.F.R. prohibits recipients from administering programs in a manner that subjects individuals to discrimination based on race, color, national origin, or sex. The NMED's decision on the Rhino landfill, made in the context of the NMED's solid waste program, subjects people of Latino origin to disproportionate impacts and risks from the landfill.

Second, NMED has authorized a solid waste landfill where there has not been a waste landfill before. Rhino has sought and obtained a permit to expand and change entirely the effect and scope of its existing permit, resulting in a much more intense use of the subject land. *See, Atlixco Coalition v. County of Bernalillo* (May 10, 1999, NM Ct of Appeals decision).

C. NMED's decision has direct impacts and imposes direct risks on the predominantly minority community of Chaparral.

Should NMED allege that its decision does not cause any impacts on the surrounding predominantly minority community, this is incorrect as a matter of fact. The change in status and expansion of the landfill authorized by the NMED will have direct environmental impacts on those communities and will impose significant environmental risks on them as well.

The impacts and risks associated with the landfill are unique, in excess of any impacts and risks that could occur from any other development. For example, only a landfill or other solid waste

facility would subject the community to blowing trash and dumping of trash. Similarly, the risks to ground water posed by the landfill would not result from other types of development. The impacts and risks that result from NMED's decision are unique to the operation of a landfill.

D. NMED's actions are not excused by the EPA's review of New Mexico regulations.

EPA review of regulations adopted by the New Mexico Environmental Improvement Board to regulate solid waste in the state does not excuse NMED's conduct. EPA review of regulations such as the New Mexico Solid Waste Management Regulations does not involve any hold harmless or indemnity clause in which the EPA guarantees that use of the regulations will not involve discrimination or discriminatory impacts, and the EPA has no authority to provide such guarantees in any event.

Moreover, the issue in this proceeding is the discriminatory impact that has resulted from the manner in which the NMED has applied the Solid Waste Management Regulations, and other New Mexico and NMED policies and procedures. The Complainants have not alleged that the Act, the Regulations, or any policy or procedure is discriminatory on its face; the discriminatory impact has been caused by the manner in which the NMED has applied the Act, the Regulations, and policies and procedures in connection with the Rhino landfill. Even if the EPA guaranteed that the Act, the Regulations, and all of the State of New Mexico and NMED policies and procedures pertaining to regulation of solid waste had no discriminatory elements, that still would not mean that they could not be applied to produce discriminatory impacts.

E. NMED has had guidance concerning non-discrimination in the implementation of its programs.

The NMED has had ample guidance that it should not administer its solid waste program in a manner that subjects people of color to disproportionate impacts and risks. The Civil Rights Act was enacted in 1964. The EPA regulations codified at 40 C.F.R. Part 7 were promulgated in 1984, which is also the year in which the Attorney General issued his memorandum quoted on pages 8 and 9 above. Executive Order 12898, which mandates that federal programs be administered to prevent environmental injustice, was promulgated in February, 1994. NMED cannot claim that it has had no notice that it should administer its programs, even programs that are neutral on their face, in a manner that does not discriminate. Most importantly, ignorance of the law is no excuse for violating the law. Even if NMED knew nothing about the requirements of the Civil Rights Act and the EPA regulations, NMED would still be bound by those requirements.

Should the NMED claim it does not assert a right to discriminate, this too is irrelevant. Whether NMED does or does not assert such a right has no bearing on the Complainants' allegations; the validity of those allegations is demonstrated by the discriminatory impacts of NMED's actions, and those allegations do not depend upon NMED's intent. Moreover, even if NMED were to

assert that it has a right to discriminate, that would not change the law. NMED has no right to discriminate, and assertion of such a right would be rejected by the EPA and by any court.

Remedy

The Complainants request that the EPA immediately suspend NMED's municipal solid waste permitting authority unless and until NMED devises a method of administering that authority that does not result in the violation of Title VI and EPA's regulations. The Complainants further request that the EPA immediately suspend all financial and other assistance to NMED unless and until NMED revokes the Rhino landfill municipal solid waste facility permit, as granting that permit violates Title VI and EPA's regulations. The Complainants also request that their counsel, Southern New Mexico Legal Services, Inc., be sent copies of all correspondence concerning this Complaint between EPA, NMED, and Rhino landfill.

Conclusion

As this Complaint indicates, the NMED permitting of the Rhino landfill as a municipal waste facility has created a disproportionate impact on the Latino community of Chaparral. The discriminatory impact created and sanctioned by NMED's actions violates Title VI and EPA's regulations. Because NMED receives federal assistance from EPA, NMED is subject to Title VI as implemented by EPA's regulations. The Complainants expect and look forward to a prompt investigation of this Complaint pursuant to 40 C.F.R. § 7.120. The Complainants also will provide to the EPA any requested documentation and other information.

We would appreciate your acknowledging receipt of this Complaint. If you have any questions about the Complaint or would like further information, please do not hesitate to contact me at (505) 541-4841. Thank you for your cooperation.

Sincerely,



Maria M. Laverde

Attorney for the Complainants